

REMARKS

The application has been amended and is believed to be in condition for allowance.

There are no formal matters pending.

Amendments to the Application

Claim 13 is amended to address an error introduced with the amendment of March 2, 2009, wherein the lateral annular wall of the food packaging was mistakenly drafted as part of the inventive decorative band. Accordingly, claim 13 is amended to recite, in the preamble of the claim, the food packaging as having a lateral annular wall, the lateral annular wall not being an element of the decorative band recited in the body of the claim.

The amendment finds support in the specification and the drawing figures as originally filed (e.g., page 1, lines 7-13 and 20-23; page 2, lines 1-3).

Claim 1 is further amended to recite that the features of the invention in a form more consistent with U.S. form, and further to recite that the thin film material of the inventive band has a first longitudinal edge extending from a first of two free ends to a second of two free ends, said first longitudinal edge being rectilinear and substantially parallel to the longitudinal axis of the band. This amendment is supported in the specification and the drawing figures, for example page 3, lines 21-26; Figures 1-3.

Claims 14, 15 and 24 are also amended to clarify the recited features of the invention in a manner supported by the specification and the drawing figures originally filed.

New claims 25 and 26 further recite the distinguishing features of the invention. The new claims are supported by the specification and the drawing figures as originally filed (e.g., page 6, lines 23-26; page 9, lines 32-34).

The foregoing claim amendments and new claims are directed toward the elected claim Group I drawn to a decorative band.

It is further submitted that, based at least on the foregoing citations to the specification and drawing figures originally filed, the foregoing claim amendments and new claims are not believed to introduce new matter.

Substantive Issues - Section 102

The Official Action rejected claims 13-16 and 24 under 35 USC 102(b) as being anticipated by Virog et al. (US 4,046,275; "VIROG").

In response, it is firstly noted that claim 13 has been amended, as indicated above. It is respectfully submitted that VIROG fails to teach a decorative band as recited by claim 13 as amended.

For example, it is respectfully submitted that Virog fails to teach a thin film material having two opposite free ends, the thin film extending longitudinally from a first of the

two free ends to a second of the two free ends to form a first and a second longitudinal edge, as recited by claim 13.

On the contrary, VIROG is directed to a mold in which material is blow-molded in order to form the shape of a jug container, and not the container itself (see column 1 line 51 to column 2 line 19, particularly describing the Figures 1-8).

The Official Action identifies the band 16 in Figures 1 and 4 as anticipating the decorative band of the invention. However, as the band 16 in the Figures is not illustrating a band around a container but merely a cavity in which blow-molded material is applied. In addition, it is respectfully submitted that in the final product formed by the mold, the band formed by the cavity at 16 is merely a thickness of the same material as the remainder resulting product.

Accordingly, it follows that the band 16 disclosed by VIROG from column 2 line 45 to column 3 line 14 does not feature first and second free ends, as recited by claim 13, and further does not teach or suggest a thin film material having two opposite free ends.

It is further respectfully submitted that the band 16 of VIROG fails to disclose a first longitudinal edge that, from the first of the two free ends to a second of the two free ends, is rectilinear and substantially parallel to the longitudinal axis of the band, as recited by claim 13 as amended.

Based at least on the reasons foregoing, it is respectfully submitted that VIROG fails to anticipate all the features recited in independent claim 13.

Accordingly, it is respectfully submitted that claim 13 is patentable and that the rejection of claim 13 should be withdrawn.

It is further respectfully submitted that claims depending from claim 13, including new claims 25 and 26, are patentable at least for depending from a patentable parent claim, based at least on the reasons set forth above.

Reconsideration and allowance of the claims are respectfully requested.

It is further noted that the claims as presented are patentable over the previously cited reference Benzon (US 3,260,871) as this reference fails at least to teach the first longitudinal edge being rectilinear, and a minimum width of a second portion of the band being between one third and two thirds of a maximum width of at least one first portion of the band.

From the foregoing, it will be apparent that Applicant has fully responded to the January 8, 2010 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Jeremy G. Mereness/  
Jeremy G. Mereness, Reg. No. 63,422  
209 Madison Street  
Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

JGM/fb